

FILED  
U.S. DISTRICT COURT  
2014 DEC -8 PM 4:25  
S.D. OF N.Y.W.P.

Yuval H. Marcus (YM 5348)  
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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK**

COFFEE LABS ROASTERS, INC.,

*Plaintiff,*

v.

COFFEE LAB INC., DBA  
THE COFFEE LAB,

*Defendant.*

**14 Civ. 9674**

JUDGE ROMAN

Civil Action No.

**COMPLAINT**

Plaintiff Coffee Labs Roasters, Inc. (“Plaintiff” or “Coffee Labs”), by and through its attorneys, Leason Ellis LLP, alleges for its Complaint against Defendant Coffee Lab Inc., dba The Coffee Lab (“Defendant”), as follows.

**Statement of the Case**

This is a trademark infringement case. Plaintiff has used the mark COFFEE LABS ROASTERS in providing coffee-related goods and services, including coffee, coffee roasting and processing services and coffee bars, since at least as early as 2003. Plaintiff also owns an incontestable, federal registration of the mark COFFEE LABS ROASTERS for coffee, coffee roasting and processing services and coffee bars. Defendant has adopted an infringing name and mark The Coffee Lab for identical coffee services which is likely to cause confusion in the

marketplace in violation of federal and state law. Despite Defendant's assurances that it would discontinue use of the infringing name The Coffee Lab, Defendant is continuing to use the name. Accordingly, Plaintiff is seeking treble damages and attorney's fees as a result of Defendant's willful infringement.

### **THE PARTIES**

1. Plaintiff is a corporation organized and existing under the laws of the State of New York, with an address at 7 Main Street, Tarrytown, New York 10591.
2. Upon information and belief, Defendant is a corporation organized and existing under the laws of the State of New York, with an address at 6903 3<sup>rd</sup> Avenue, Bay Ridge, New York 11209 that is doing business under the name The Coffee Lab.

### **JURISDICTION AND VENUE**

3. This Court has personal jurisdiction over Defendant by virtue of its incorporation and transacting business in the State of New York and causing harm in this District.
4. The subject matter jurisdiction of this Court over Counts I and II rest upon causes of action arising under the Trademark Act of 1946 (as amended), 15 U.S.C. §§ 1051 *et seq.* Therefore, this Court has original jurisdiction over these Counts pursuant to 15 U.S.C. §1121 and 28 U.S.C § 1338(a).
5. Counts III and IV are joined as substantial and related claims and, accordingly, subject matter jurisdiction for these Counts is conferred upon this Court pursuant to 28 U.S.C. § 1338 and the doctrine of pendent jurisdiction.
6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).
7. Venue is specifically proper in the White Plains Division of the Southern District of New York per Rule 18(a)(1) of the Rules for the Division of Business Among District Judges

for Southern District of New York as Plaintiff's claim arises in whole or in major part in the County of Westchester (where it has actively and continuously used the trademark at issue since at least 2003) and Plaintiff resides in the Northern Counties as defined by the rule (*i.e.*, Westchester county).

**FACTS COMMON TO ALL COUNTS**

**Plaintiff's Activities**

8. Since 2003, Coffee Labs has offered its high-quality, roasted coffee to customers, under the trademark COFFEE LABS ROASTERS, through a number of different distribution channels, including through the operation of a coffee bar in Tarrytown, New York. In addition, Coffee Labs' roasted coffee is sold in retail stores, such as Whole Foods, in the New York metropolitan area, and throughout the United States through Coffee Labs' website.

9. Since at least as early as 2003, Coffee Labs, has continuously used the trademark COFFEE LABS ROASTERS in providing high-quality coffee products and services.

10. Coffee Labs has engaged in significant advertising and promotion of its coffee products and services. Among other things, it has a comprehensive internet website at [www.Coffeelabs.com](http://www.Coffeelabs.com). Screen shots are attached as **Exhibit A**.

11. Because of Plaintiff's longstanding use and extensive advertising and promotion of the COFFEE LABS ROASTERS trademark, it has come to be recognized and relied upon by consumers and the public as identifying Plaintiff's high-quality coffee products and services and distinguishing them from others.

12. In addition to its common law rights in the mark COFFEE LABS ROASTERS, Plaintiff owns U.S. Registration No. 3,282,831 for the mark COFFEE LABS ROASTERS for among other things, coffee, coffee roasting and processing services and coffee bars. A copy of the

registration is attached as **Exhibit B**. The registration is valid, subsisting, enforceable, and incontestable. Pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, Plaintiff's incontestable federal registration of the mark COFFEE LABS ROASTERS constitutes conclusive evidence of plaintiff's ownership and exclusive right to use the mark.

13. The COFFEE LABS ROASTERS trademark is also incorporated into Plaintiff's logo:



Plaintiff also owns U.S. Registration No. 4,518,831 for the COFFEE LABS ROASTERS logo, for among other things, coffee, coffee roasting and processing services and coffee bars. A copy of the registration is attached as **Exhibit C**. The registration is valid, subsisting, and enforceable.

14. The COFFEE LABS ROASTERS trademark is distinctive and represents the valuable goodwill and reputation belonging exclusively to Plaintiff.

**Defendant's Activities**

15. Upon information and belief, Defendant operates a coffee bar in the Bay Ridge area of Brooklyn, New York, which is doing business as The Coffee Lab.

16. Upon information and belief, Defendant began to advertise and/or render coffee services under the name and mark THE COFFEE LAB ("Infringing Mark") in the Bay Ridge Brooklyn area beginning in or around April 2014.

17. Upon information and belief, Defendant uses the name and mark THE COFFEE LAB as the name of its competing coffee establishment. The name appears on signage on the front of the coffee bar and on point of sale materials such as coffee cup sleeves. In addition, Defendant has a significant online presence through advertising its infringing establishment and products using social media outlets, such as Facebook and Twitter. Images are attached as **Exhibit D**. In the logo, the words COFFEE LAB are prominently placed in the middle of the logo.

18. The coffee services offered by Defendant under the Infringing Mark are exactly the same as, and therefore compete with, the coffee products and services provided by Plaintiff. As such, Defendant is a direct competitor of Plaintiff in the business of providing coffee and coffee-related services to customers in the New York metropolitan area.

19. Plaintiff and Defendant are not associated with each other and Plaintiff has never authorized Defendant to use its name and mark COFFEE LABS ROASTERS or the confusingly similar name The Coffee Lab.

20. Defendant's use of the Infringing Mark is causing actual consumer confusion with Plaintiff's federally registered COFFEE LABS ROASTERS trademark. Indeed, Plaintiff has received emails intended for Defendant.

21. In July 2014, after learning for the first time of Defendant's coffee establishment, Plaintiff called Defendant and advised Defendant that the name The Coffee Lab infringed the COFFEE LABS ROASTERS trademark and requested that Defendant change the name of its establishment.

22. Defendant responded by claiming that it did not need to change the name because it does not roast coffee.

23. On July 30, 2014, Plaintiff's counsel sent Defendant, a letter that notified it of the infringing activity, informed it of actual consumer confusion, and demanded that Defendant immediately cease its infringing activity. A copy of Plaintiff's letter is attached as **Exhibit E**.

24. In August 2014, Defendant, through its owner, Don Lee, contacted Plaintiff's counsel and stated that he understood that Plaintiff owned the COFFEE LABS ROASTERS trademark and that he would change the name of Defendant's establishment and cease use of the name The Coffee Lab. He said the name change would be completed in a few months.

25. As of December, 2014, Defendant has failed to stop using the infringing name The Coffee Lab for its competing coffee establishment in Bay Ridge, Brooklyn.

26. By virtue of the above communications, Defendant is on actual notice of Plaintiff's earlier federally registered trademark rights.

27. Defendant's conduct is in willful disregard of Plaintiff's prior trademark rights and threatens to confuse and deceive the public concerning the origin, affiliation and sponsorship of Defendant's coffee products and services.

28. The aforesaid activities of Defendant have damaged Plaintiff and are likely to continue to damage Plaintiff unless otherwise restrained.

**COUNT I**  
*(Federal Trademark Infringement under 15 U.S.C. § 1114)*

29. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 28 hereof as if fully stated herein.

30. Defendant's use of the Infringing Mark is likely to cause confusion, or to cause mistake, or to deceive Defendant's customers or potential customers and the public as to the origin, affiliation and sponsorship of Defendant's services. Consumers are likely to be misled into believing that Defendant's coffee services are associated with Plaintiff, are sponsored by Plaintiff, have the approval of Plaintiff, or are subject to Plaintiff's supervision and control.

31. Defendant's unauthorized use of the Infringing Mark facilitates the acceptance of Defendant's coffee services in the marketplace, not based on the quality of the services offered or rendered by Defendant, but on the association that the public is likely to make with Plaintiff and the reputation and goodwill associated with Plaintiff's coffee products and services.

32. Defendant's unauthorized use of the Infringing Mark deprives Plaintiff of the ability to control the quality of the coffee products and services marketed under the COFFEE LABS ROASTERS trademark, and instead, places Plaintiff's valuable reputation and goodwill into the hands of Defendant, over whom Plaintiff has no control.

33. Defendant's conduct alleged herein constitutes infringement of Plaintiff's federally registered service mark in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

34. Defendant's unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff.

35. By reason of the foregoing, Plaintiff is being damaged by Defendant's willful activities and will continue to be damaged unless Defendant is enjoined from the aforesaid acts.

36. Plaintiff has no adequate remedy at law.

**COUNT II**

*(Federal Unfair Competition under 15 U.S.C. §1125(a))*

37. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 36 hereof as if fully stated herein.

38. Defendant's use of the Infringing Mark in connection with its coffee services constitutes false designation of origin and false representation with respect to the origin of Defendant's services. Such use is likely to cause confusion, to cause mistake, or to deceive the public, including prospective consumers of Plaintiff, into mistakenly believing that Defendant is Plaintiff, or is an affiliate of Plaintiff, or that Defendant's services are authorized, sponsored, endorsed, or affiliated with Plaintiff.

39. Defendant's actions constitute unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

40. Defendant's unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff.

41. By reason of the foregoing, Plaintiff is being damaged by Defendant's willful activities and will continue to be damaged unless Defendant is enjoined from the aforesaid acts.

42. Plaintiff has no adequate remedy at law.

**COUNT III**

*(State Common Law Unfair Competition)*

43. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 42 hereof as if fully stated herein.

44. Defendant's aforesaid conduct constitutes common law unfair competition with Plaintiff under the common law of the State of New York.

45. Defendant's unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff.

46. By reason of the foregoing, Plaintiff is being damaged by Defendant's willful activities and will continue to be damaged unless Defendant is enjoined from the aforesaid acts.

47. Plaintiff has no adequate remedy at law.

**COUNT IV**

*(Deceptive Practices and False Advertising under New York Statutory Law)*

48. Plaintiff hereby repeats and realleges the allegations set forth in Paragraphs 1 through 47 above.

49. Defendant's acts described above constitute deceptive acts and practices and false advertising in violation of N.Y. Gen. Bus. Law. 349-350.

50. Defendant's unlawful actions have caused and are continuing to cause unquantifiable damages to Plaintiff.

51. By reason of the foregoing, Plaintiff is being damaged by Defendant's willful activities and will continue to be damaged unless Defendant is enjoined from these acts.

52. Plaintiff has no adequate remedy at law.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays for the following relief:

i. An Order permanently enjoining and restraining Defendant, and any entities acting or purporting to act for or on behalf of the foregoing, including any agents, employees, representatives, officers, directors, servants, partners, and those persons in active concert or participation with them, from using the Infringing Mark and any other words, phrases, symbols, logos, or combination of words and symbols that would create a likelihood of confusion, mistake or deception with Plaintiff's COFFEE LABS ROASTERS trademark.

ii. An Order permanently enjoining and restraining Defendant, and any entities acting or purporting to act for or on behalf of the foregoing, including any agents, employees, representatives, officers, directors, servants, partners, and those persons in active concert or participation with them, from engaging in any acts of unfair competition and/or deceptive trade practices utilizing any names or marks that are confusingly similar with Plaintiff's COFFEE LABS ROASTERS trademark.

iii. An Order (a) requiring an accounting of Defendant's profits pursuant to Defendant's unlawful activities and (b) awarding all of said profits to Plaintiff as damages sustained by Plaintiff due to Defendant's acts complained of herein.

iv. An Order trebling the award of Defendant's profits and Plaintiff's damages in view of the reckless, willful, and intentional nature of Defendant's conduct.

v. Plaintiff to be awarded pre-judgment interest.

vi. An Order requiring Defendant to deliver up for destruction all unauthorized, advertisements, and promotional materials, and any other materials in their possession or under their control bearing the Infringing Mark pursuant to 15 U.S.C. § 1118.

vii. Plaintiff to be awarded such other relief necessary to prevent the trade and public from deriving any false or erroneous impression that any services marketed, advertised or promoted by Defendant are in any way authorized, endorsed, sponsored, or approved by Plaintiff.

viii. Plaintiff to be awarded Attorney's fees and costs.

ix. Plaintiff to be awarded such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands trial by jury on all issues triable to a jury.

Dated: December 8, 2014  
White Plains, New York

Respectfully submitted,  
LEASON ELLIS LLP

By: William R. Thornewell II  
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Cameron S. Reuber (CR 7001)  
William R. Thornewell II (WT 0575)

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*Attorneys for Plaintiff*

## **Exhibit A**

File Edit View History Bookmarks Tools Help

Home www.coffeelabs.com Google Suggested Sites

Most Visited Leason Ellis Home Date calculator Free Patents Online Google Patents Google LMS+ Login NYS Corporations Search PAIR Suggested Sites

F P

Free Holiday shipping until 1/1/15  
Enter HOLIDAYSHIP during checkout

Coffee Labs ROASTERS

Shop Our Coffee Find Our Store Read Our Blog

BLOG SHOP WHOLESALE ABOUT US SUSTAINABILITY OUR LOCATION CONTACT

© 2014 COFFEE LABS SITE BY BEAKMONSTER STUDIOS

Returns and Policies

The screenshot shows a web browser window with the URL www.coffeelabs.com. At the top, there's a menu bar with File, Edit, View, History, Bookmarks, Tools, and Help. Below that is a toolbar with icons for Home, Back, Forward, Stop, Refresh, and other functions. The main content area features a banner for "Free Holiday shipping until 1/1/15 - Enter HOLIDAYSHIP during checkout". Below the banner is a video player showing a black dog standing in a field of coffee beans. Underneath the video are three buttons: "SHOP OUR COFFEE", "FIND OUR STORE", and "READ OUR BLOG", each accompanied by a small icon. At the bottom of the page is a dark footer bar with links to BLOG, SHOP, WHOLESALE, ABOUT US, SUSTAINABILITY, OUR LOCATION, and CONTACT. The footer also includes copyright information and links for RETURNS AND POLICIES.

## **Exhibit B**

Int. Cls.: 30, 40 and 43

Prior U.S. Cls.: 46, 100, 101, 103 and 106

Reg. No. 3,282,831

United States Patent and Trademark Office

Registered Aug. 21, 2007

TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER

COFFEE LABS ROASTERS

COFFEE LABS ROASTERS, INC. (NEW YORK  
CORPORATION)  
7 MAIN STREET  
TARRYTOWN, NY 10591

FOR: COFFEE, BEVERAGES MADE OF COFFEE,  
PREPARED COFFEE AND COFFEE-BASED BEV-  
ERAGES AND COFFEE BEANS AND GROUND  
COFFEE BEANS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE ROASTING AND PROCESSING  
SERVICES, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE BARS, IN CLASS 43 (U.S. CLS. 100  
AND 101).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COFFEE" AND "ROASTERS",  
APART FROM THE MARK AS SHOWN.

SER. NO. 78-850,002, FILED 3-30-2006.

RONALD MCMORROW, EXAMINING ATTORNEY

## **Exhibit C**

# United States of America

## United States Patent and Trademark Office



**Coffee Labs**

**ROASTERS**

**Reg. No. 4,518,831**

COFFEE LABS ROASTERS, INC. (NEW YORK CORPORATION)

7 MAIN STREET

Registered Apr. 22, 2014

TARRYTOWN, NY 10591

**Int. Cls.: 21, 25, 30, 40,  
and 43**

FOR: MUGS, TRAVEL MUGS AND CUPS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40  
AND 50).

FIRST USE 6-0-2013, IN COMMERCE 6-0-2013.

**TRADEMARK**

FOR: T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

**SERVICE MARK**

FIRST USE 12-20-2013; IN COMMERCE 12-20-2013.

**PRINCIPAL REGISTER**

FOR: COFFEE, BEVERAGES MADE OF COFFEE, PREPARED COFFEE AND COFFEE-BASED  
BEVERAGES AND WHOLE COFFEE BEANS AND GROUND COFFEE BEANS, IN CLASS  
30 (U.S. CL. 46).

FIRST USE 8-0-2013, IN COMMERCE 8-0-2013.

FOR: COFFEE ROASTING AND PROCESSING SERVICES, IN CLASS 40 (U.S. CLS. 100, 103  
AND 106).

FIRST USE 8-0-2013; IN COMMERCE 8-0-2013.

FOR: COFFEE BARS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 6-0-2013; IN COMMERCE 6-0-2013.

OWNER OF U.S. REG. NOS. 3,282,831 AND 3,282,832.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE" AND "ROASTERS",  
APART FROM THE MARK AS SHOWN.

*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office



THE MARK CONSISTS OF "COFFEE LABS ROASTERS" STYLIZED WITH DESIGN OF A  
DOG HOLDING A CUP OF COFFEE. THE LETTER "O" WITHIN THE WORD "COFFEE"  
HAS DESIGN OF A COFFEE BEAN. THE WORD "ROASTERS" IS IN THE BOX. THERE IS

**Reg. No. 4,518,831** A BOX AROUND DESIGN OF THE DOG. THE DOG HAS A COLLAR WITH A COFFEE BEAN HANGING FROM IT.

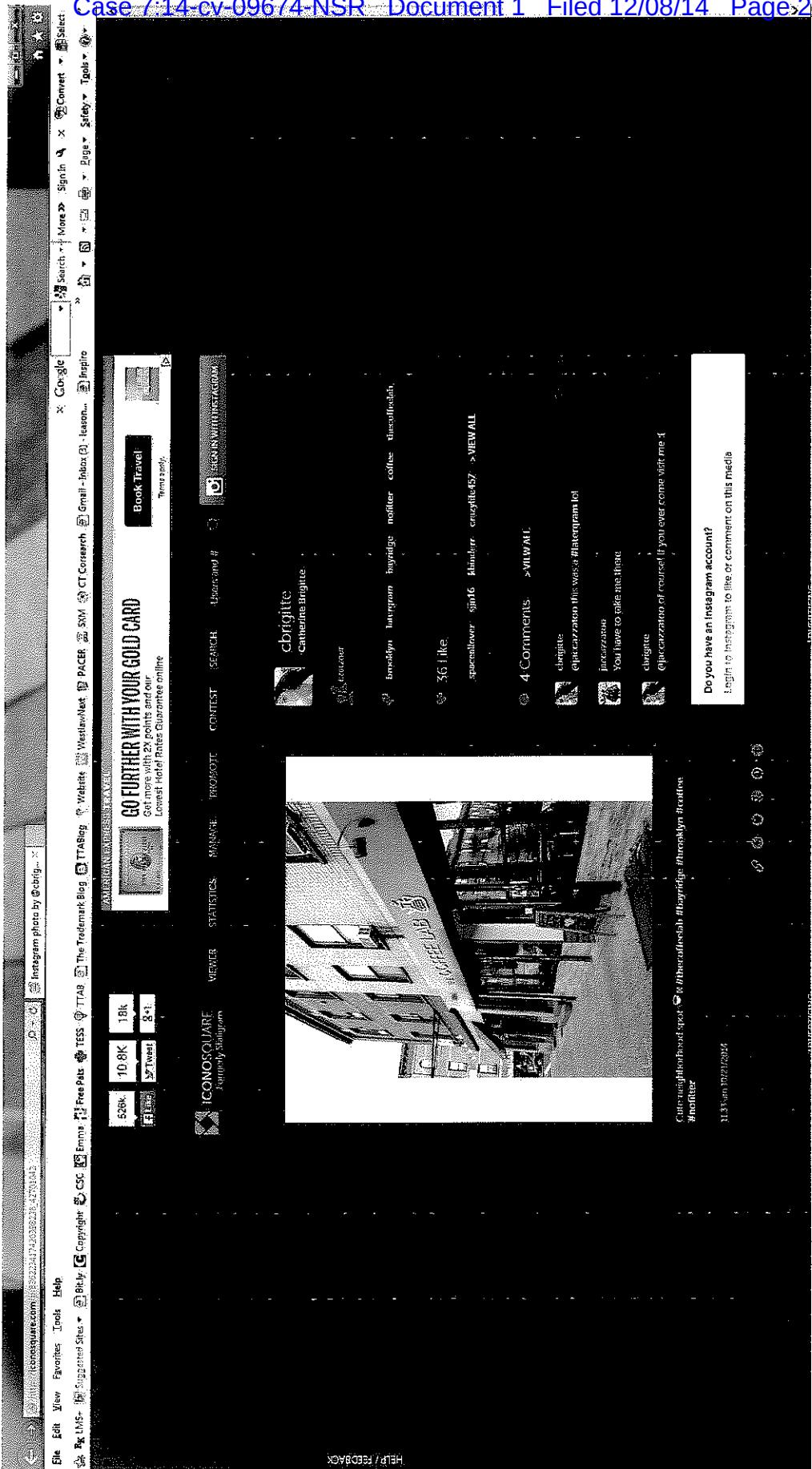
SN 85-817,718, FILED 1-8-2013.

LOURDES AYALA, EXAMINING ATTORNEY

## **Exhibit D**







The Coffee Lab

Yavaf Home

Create Page Marci Lerner Zeidberg likes New York City's status.

Recent Andy Buck commented on Jem McDowell's link.

Sponsored Tom Martin likes Rachel Florio Urso's photo.

Debbie Ginsburg likes Anna Henry's status.

Ella Scheinwald commented on Lior Suchard's post. Shop and Save at Amazon! www.amazon.com

Shop and Save at Amazon! Show Older

Janna Saidel Le... Mobile

Elisavetovich Mobile

Ariel Kalish Glas... Mobile

Smart Watch Sale 15% off averbuying.com Geoff Winston Smart watch 30% off, plus free ship... eggyshoes.com Shaw Now! Shop Now!

Mark Semer Web

Hillary Zellner Ka... Mobile

Scott Fisher Mobile

Mark Jorle Mobile

Carmella Abraham Mobile

Donny Reich Web

Susie Rubin Sch... Mobile

Lily Poulad Meyer Mobile

Judy Federbush Web

Susan Goldstein... Mobile

Stuart Schrader Mobile

Shira Agus Lewis Web

MORE FRIENDS (5)

Ella Scheinwald Web

**THE COFFEE LAB**

**The Coffee Lab**  
Coffee Shop

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Timeline About Photos Reviews More

Post Photo / Video

Write something on this Page

247 likes  
350 visits

Invite your friends to like this Page

ABOUT

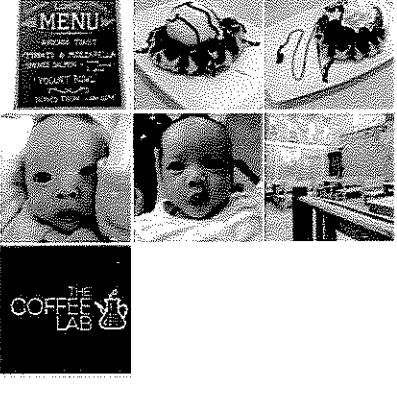
6903 3rd Ave Brooklyn, New York

Open Today 6:30am - 9:00pm

<https://twitter.com/coffeelabbb>

Suggest Edits

PHOTOS



**The Coffee Lab** November 12 at 5:34pm Edited

Starting Friday... Lunch is available  
More food choices to come



Like Comment Share 20

**The Coffee Lab** October 23

New fall drinks  
Pumpkin Spice Latte  
Lavender Latte... See More

Like Comment Share 11

**The Coffee Lab** October 15

Now selling coffee by the bag.  
Decaf Beans available  
Preorder required, (roasted fresh as per order)  
Additional seating now available

Like Comment Share

**Laura Bernstein Schwartz** October 23 at 4:23pm

Wow...When did you open a branch in Brooklyn?  
Brooklyn is now getting some Tarrytown goodness!

Like Comment 1

**Jenny Audet** October 17 at 9:29pm

Hi

Like Comment

**The Coffee Lab** added 2 new photos.  
October 3

Now serving belgian waffle



Search

Coffeelabangelluzzo  
August 26 at 4:43pm

My first time in here today. Very friendly stuff. Clean & quiet place. Iced latte was PERFECT! Will be coming back again <3

[Like](#) · [Comment](#)[Like](#) · [Comment](#) · [Share](#) · 25 · 1

## REVIEWS

4.7 · 4.7 of 5 stars · 20 reviews



Natalie Walters — I'm thrilled to finally have a real coffee shop in the neighborhood, which has, until this place opened, been a desert ... See More

May 12, 2014 · 6 Reviews  
[Like](#) · [Comment](#) · 5

Veronica Grijalva — Just what the neighborhood needed. A coffee shop that does coffee right. :) Also, try the cupcakes they carry from Eugenia's bakery. They're amazing!

April 7, 2014 · 8 Reviews  
[Like](#) · [Comment](#) · 1

Kenric Tam — Smooth latte, super friendly staff.

April 3, 2014 · 4 Reviews  
[Like](#) · [Comment](#) · 1[Tell people what you think](#)
[English \(US\)](#) · [Privacy](#) · [Terms](#) · [Cookies](#) · [Advertising](#) · [More](#)  
 Facebook © 2014
[The Coffee Lab](#)

October 2 · Edited ·

Start Monday October 6th. Store hours will be extended as follows:

Mondays to Fridays 6:30am to 9:00pm

[See More](#)[Like](#) · [Comment](#) · [Share](#) · 9 · 3[The Coffee Lab](#) added 2 new photos

October 2 · Edited

Grace (3lb 14oz) &amp; Susanna (3lb 6oz) born July 2014

[Like](#) · [Comment](#) · [Share](#) · 29 · 3[The Coffee Lab](#)

July 18

We have partnered with the co-founder of Luja Sweet Apothecary To bring you Vegan Affogato

The vegan ice cream is made with cashew milk and will be served with our double shot espresso... [See More](#)

[affogato.he](#)

AFFOGATO HE

[Like](#) · [Comment](#) · [Share](#) · 4[The Coffee Lab](#)

June 28

Starting Monday, June 30th, we will open earlier to serve the early commuters.

Summer hours:

Mondays to Thursdays 7am to 8pm

[Fridays 7am to 9pm... See More](#)[Like](#) · [Comment](#) · [Share](#) · 9[The Coffee Lab](#)

June 29



Marci Lerner Zeidberg likes New Yoga City's status.



Andy Buck commented on Jem McDowell's link.



Tom Martin likes Rachel Florio Urso's photo.



Debbie Ginsburg likes Alicia Henry's status.



Ella Scheinwald commented on Lior Suchard's post.

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Jenna Saidele Le... · Mobile



Jason Novich · Web



Ariel Kalish Glas... · Mobile



Geoff Winston · Web



Jessica Shaw · Mobile



Mark Serner · Web



Hillary Zellner Ka... · Mobile



Scott Fisher · Mobile



Mark Jorle · Mobile



Carmella Abraham · Mobile



Donny Reich · Web



Susie Rubin Sch... · Mobile



Lily Poulad Meyer · Mobile



Judy Federbush · Web



Susan Goldstein... · Mobile



Stuart Schrader · Mobile



Shira Agus Lewis · Web

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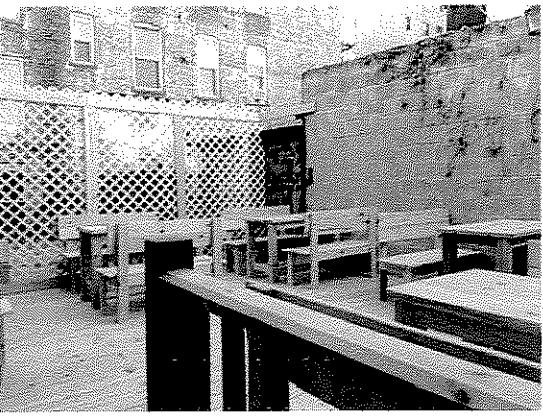
Ella Scheinwald · Web

The Coffee Lab

Frappe rolling out tomorrow.....  
Nutella Monster

Current macaron flavors:... See More  
Like Comment Share 9 1

 The Coffee Lab  
June 12 ·  
Macarons are back!!!  
This weekends flavors will be Rose, Nutella and my personal favorite Vanilla  
Currently on the drawing board..... See More  
Like Comment Share 12 2

 The Coffee Lab  
June 6 ·  
Backyard seating is now available....  
  
Like · Comment · Share · 58 14

 The Coffee Lab  
May 29 ·  
To promote both our new macaron supplier and our Nutella Latte, this Saturday, we will give out a free Nutella macaron to the first 30 people who orders a Nutella Latte.  
Next week from Monday to Friday, we will close at 7pm for renovation  
Like · Comment · Share · 4

 The Coffee Lab  
May 25 ·  
We will be closing early today (6:30pm) and tomorrow (6pm). Enjoy the rest of your Memorial Weekend.  
Like · Comment · Share

 The Coffee Lab  
May 21 Edited ·  
This weekends rollout item will be Nutella Latte.  
Fresh Lab-made whipped cream is now available.  
Like · Comment · Share · 13 1

See More Stories ▾

Yuval Home

Marci Lerner Zeidberg likes New Yoga City's status.

Andy Buck commented on Jen McDowell's link.

Tom Martin likes Rachel Florio Urso's photo.

Debbie Ginsburg likes Alicia Henry's status.

Ella Scheinwald commented on Lior Suchard's post.

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Jenna Saidel Le... Mobile

Jason Novich Web

Ariel Kalish Glas... Mobile

Geoff Winston Web

Jessica Shaw Mobile

Mark Semer Web

Hillary Zellner Ka... Mobile

Scott Fisher Mobile

Mark Jirde Mobile

Carmella Abraham Mobile

Donny Reich Web

Susie Rubin Sch... Mobile

Lily Poulad Meyer Mobile

Judy Federbush Web

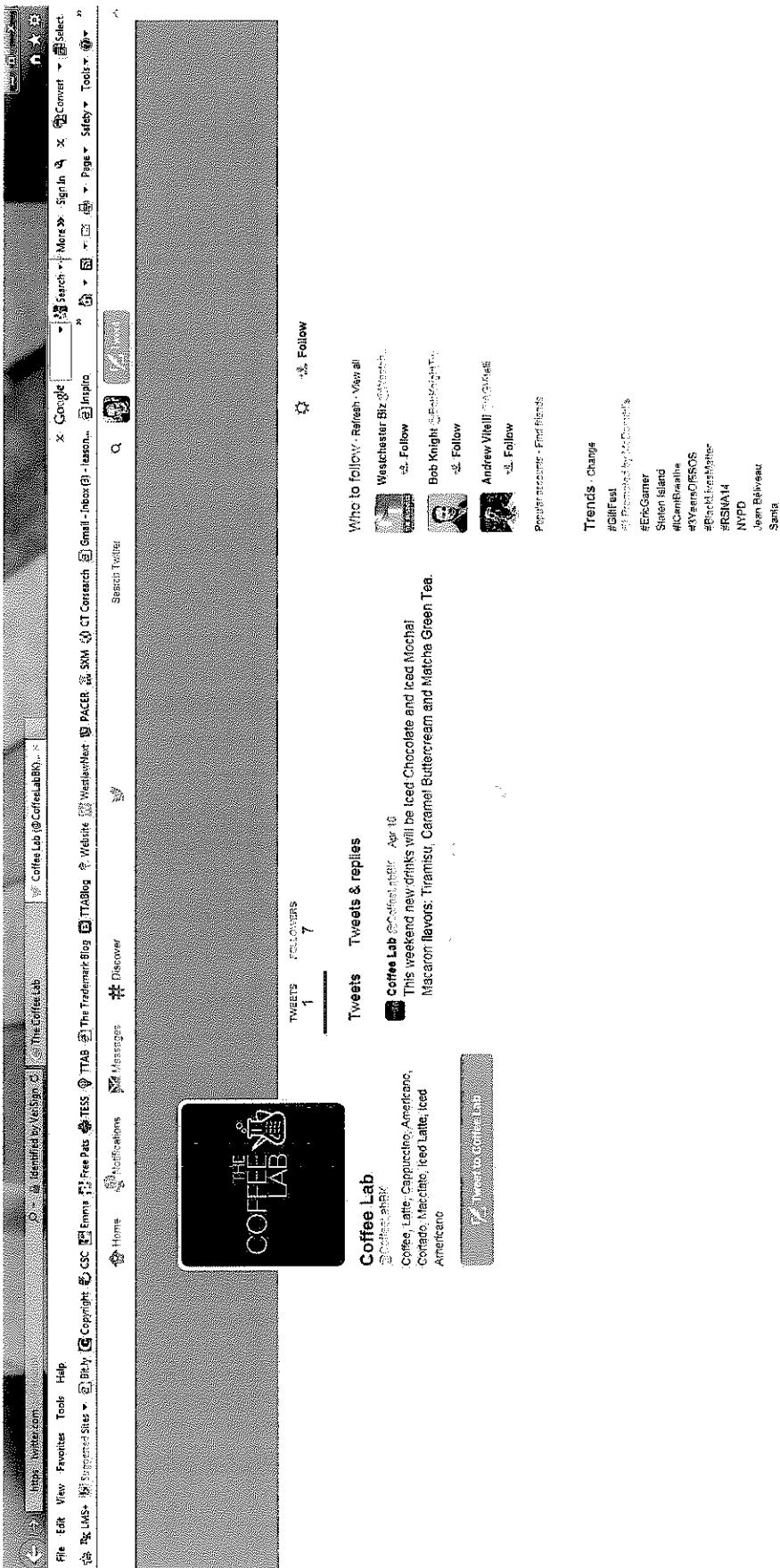
Susan Goldstein... Mobile

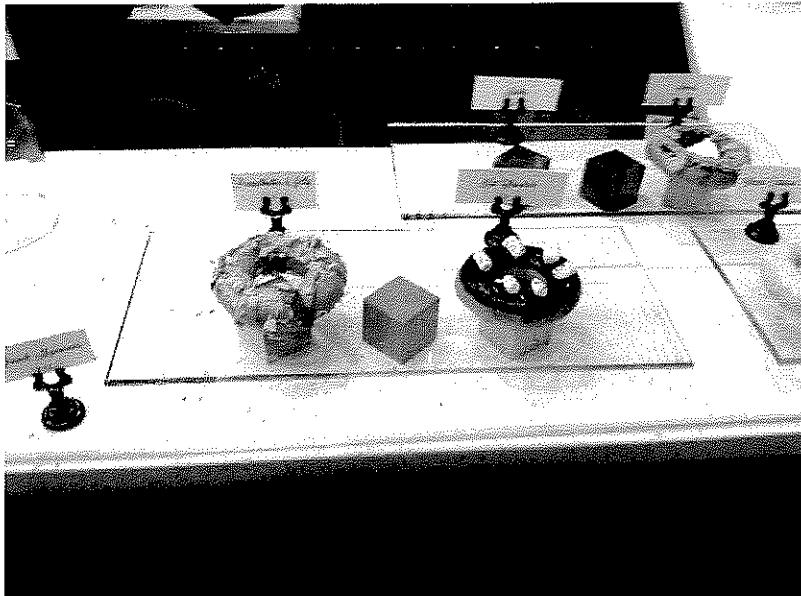
Stuart Schrader Mobile

Shira Agus Lewis Web

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Ella Scheinwald Web





Flavors at Cream Doughnuts, include peanut butter and jelly and hot chocolate with marshmallows. Photo: David Chiu

On my first visit to Cream Doughnuts, one late afternoon there were a few interesting doughnut offerings (\$2 each), among them a hot chocolate with marshmallows, and a peanut butter and jelly, I chose the first one along with a tea. Speaking as someone who has been content with Dunkin' Donuts pretty much all his life, I was surprised when I took my first bite of the thing: it tasted and felt more like a piece of cake than fried dough. Almost like the name of the establishment, this doughnut felt more textured and smooth rather than something really heavy.



Macarons come in flavors like Nutella and pumpkin spice. Photo: David Chiu



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#### Books

##### 12 Excellent Reads



Search the blog...

Search

#### Follow Us



#### Food Faves

##### First Bites at Sisters: Hardware Store Gone Gourmet in Clinton...



The new Sisters, definitely not a hardware store. Photo: Brendan Spiegel Fulton Street in Clinton Hill has become quite an...

[MORE»](#)  
Brendan Spiegel

##### First Bites: Cream Doughnuts Makes Its Debut in Bay Ridge



A hot chocolate with marshmallows doughnut pairs nicely with a cup of tea at Cream Doughnuts. Photo: David Chiu When... [MORE»](#)



There is also a non-doughnut pastry selection at Cream Doughnuts. Photo: David Chiu

Overall, the vibe at Cream Doughnuts is pretty relaxing with a few tables and chairs inside, and the people behind the counter were very friendly and accommodating. In the meantime, I am looking forward to sampling more varieties of doughnuts. There were also pastries and some very colorful macarons, in flavors like Nutella, raspberry and pumpkin cinnamon on offer. It's going to be hard now to decide which doughnut place to visit since Cream is only one block away from the nearest Dunkin' Donuts. Do I go for fancy a peanut butter and jelly doughnut at Cream, or do I stick with my usual favorite Boston Kreme at Dunkin'? Either way, that's a dilemma my stomach doesn't mind facing.

Cream Doughnuts is located on 7210 3rd Ave. in Bay Ridge, Brooklyn. Hours are generally 8am to 7pm.

bay ridge, cafe, coffee, Cream Doughnuts, donuts, doughnuts

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## Behind the Bar: Matthew Belanger of Donna



There are neighborhood haunts, and then there are bars worth traveling to because the cocktails are just that good. Our...  
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## Five Tips for Being a Good Guest



An embarrassment of kale salads. Photo: Annaliese Griffin  
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Take control of the turkey—it's the main event after all. Photo:  
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In my daughter's bedroom is a book we bought from The Children's Book Fair, held annually at the Brooklyn Museum....  
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I can spend 25 minutes scrolling through movies on Netflix and Amazon, feeling totally overwhelmed by everything I haven't seen,...  
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Long before Halloween became a highly commercialized annual ritual of plastic costumes, candy and horror films, the aura of the...  
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Ian Olasov started the Brooklyn Public Philosophers to, "change the perception of philosophy as something totally removed from everyday life." ...  
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Your Ideal Week: Nov. 26 ~ Dec. 3

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MG from WT

November 25, 2014 at 4:54 pm

Mike's Donuts is on 5th Avenue off 69th St. (Bay Ridge Avenue), not 68th Street and 3rd Avenue. Reasonably priced, good quality and decidedly unhip. Do we really need an "artisanal" donut shop in Bay Ridge? And thanks for nothing, Coffee Lab. Not every neighborhood in the City needs or wants a new hipster hangout.

[Reply](#)

Q

November 25, 2014 at 10:34 pm

Lol 8am- 7pm? Sorry guys, people in Bay Ridge work for a living.

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**Recent Articles****The Best Way to a Dog's Heart**

by Brooklyn Based 12/03/14 3:06pm

No Comments

It's a four-legged world out there and if you're searching for the perfect gift for your favorite dog or dog parent, look no further than



BarkBox. This monthly delivery of doggie delights will keep the pooches in your life rolling in treats, toys and special surprises and their owners will LOVE you for making their [...]

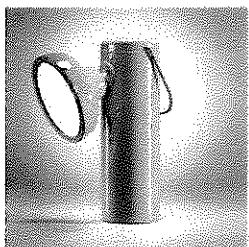


## Your Ideal Week: Dec. 4 – Dec. 10

by Brooklyn Based 12/03/14 6:48am

No Comments

The lead-up to and cooking and eating of Thanksgiving probably has you thankful you don't have to look at another turkey for at least one more year. Now that we've hit the gift guide and holiday market sweet spot, you may be wishing to just fast-forward to New Year's, but fortunately Brooklyn knows how to [...]

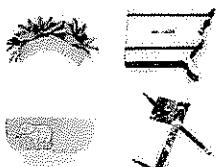


## Cool Gift Picks from the Made in Brooklyn Holiday Fair

by Kate Hooker 12/02/14 12:00pm

No Comments

People complain a lot about holiday shopping, but I'll confess here that I love it. I'd rather lick a subway platform than be confronted with a task like "buy yourself some black work pants," but scouring shops to find perfect presents for other people is a different story, especially when I find unique things that [...]

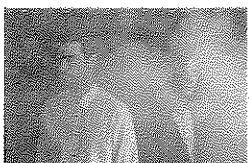


## Shop Brooklyn-Made Gifts from Your Couch with Strolby

by Meredith Craig de Pietro 12/02/14 10:00am

No Comments

I am very self righteous about doing my holiday shopping locally. I passionately support independent stores, and insist on finding unique gifts for people who are notoriously hard to shop for. Unfortunately, I'm also lazy and hate leaving my house during a polar vortex, or during the insanity of December's gifting season. So, this year [...]



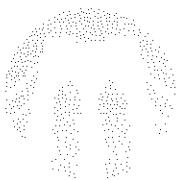
## Brooklyn Duo Beacon Returns with a Luminous New EP

by David Chiu 12/01/14 4:00pm

No Comments

The electronic duo Beacon chose a fitting name—their arresting music emits a spark that signals something quite majestic and sublime. Last year, the team of Thomas Mullarney III and Jacob Gossett put out a wonderful full-length album titled *The Ways We Separate*, a collection of tracks that are delicate and dreamy in mood, buoyed by intricate beats [...]

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»

## **Exhibit E**

# LEASON ELLIS

July 30, 2014

Reference No.: 04916/609070-000

## FEDERAL EXPRESS

Mr. Don Lee and Ms. Dora Wu  
The Coffee Lab  
6903 3rd Avenue  
Bay Ridge, New York 11209

One Barker Avenue  
Fifth Floor  
White Plains, New York 10601-1526  
t: 914.821.9075  
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Yuval H. Marcus  
Partner  
[Marcus@LeasonEllis.com](mailto:Marcus@LeasonEllis.com)  
[www.linkedin.com/in/yuvalmarcus](http://www.linkedin.com/in/yuvalmarcus)

### **Re: The Coffee Lab – Federal Trademark Infringement & Unfair Competition**

Dear Mr. Lee and Ms. Wu:

Our firm represents Coffee Labs Roasters, Inc. (“Coffee Labs”) of Tarrytown, New York, with respect to the protection of Coffee Labs’ trademarks and related proprietary rights. Coffee Labs is the owner of all right, title and interest in the word mark COFFEE LABS ROASTERS in connection with, among other things, coffee, coffee roasting and processing services and coffee bars and coffee distribution services as well as COFFEE LABS ROASTERS Design and Logo below:



Our clients’ exclusive rights to these marks (collectively, “the Coffee Labs Marks”) were granted by the U.S. Patent & Trademark Office several years ago. Specifically, U.S. Trademark Registration Nos. 3,282,831, 3,282,832 and 4,515,520 were issued to our client in connection with the mark COFFEE LABS ROASTERS for coffee and coffee related products and services. Two of these registrations have been granted incontestable status on the Principal Trademark Register. Copies of the Certificates of Registration are enclosed herein for your immediate reference.

LEASON ELLIS

July 30, 2014  
Page 2

Since 2003, Coffee Labs has been operating a coffee bar under the name and mark COFFEE LABS ROASTERS where it provides its high-quality roasted coffee to consumers. In addition, Coffee Labs has distributed its coffee throughout the United States through various distribution channels. As stated by Westchester magazine, "Coffee Labs Roasters has become one of the favorite 'anti-Starbucks' coffeehouses in the country. With an eye towards being 'green,' the shop uses 100 percent renewable energy and roasts coffee beans without automation." Thus, the Coffee Labs Marks, as a result of substantial sales and the popularity of Coffee Labs' coffee products and services, have become associated with our client's products and services and are well-known among consumers and the trade.

It has recently come to our client's attention that you are operating a coffee house in Brooklyn, New York using the name The Coffee Lab. Our client reached out to you and requested that you change the name of your coffee establishment because, among other things, it is causing confusion in the marketplace (i.e., consumers are confusing our client's coffee business with your coffee business). Our understanding is that you refused our client's good faith request to change your name because, reportedly, you do not roast coffee. If this is true, and such reasoning was reached after consultation with your legal counsel, we would encourage you to immediately seek a second legal opinion.

Please be advised that the name The Coffee Lab is extremely similar to our client's registered COFFEE LABS ROASTERS trademark, and consumers are likely to be confused into mistakenly believing that your coffee establishment is affiliated with, endorsed by, sponsored or somehow connected with our client, when that is not the case. Indeed, we are already aware of at least one instance of actual confusion. As such, your use of the name The Coffee Lab for the same goods and services offered by Coffee Labs, namely, coffee products and services, constitutes federal trademark infringement and unfair competition under the U.S. Trademark Act of 1976, 15 U.S.C. §1051 *et seq.* (commonly known as the Lanham Act). Moreover, your post-notice refusal to change the name of your coffee establishment to a name that is not confusingly similar to our client's incontestable COFFEE LABS ROASTERS trademarks constitutes willful trademark infringement under 15 U.S.C. § 1114 so as to allow our client to seek enhanced damages for your continued efforts to intentionally trade off our client's name and goodwill in the marketplace.

In light of the above, further violation of our client's intellectual property rights cannot be permitted. Accordingly, we have been instructed to take whatever actions we deem necessary to protect our client's valuable rights and to prevent confusion in the marketplace. Therefore, on behalf of our client, we demand that you cease and desist immediately from any further use of the name THE COFFEE LAB, or any other name which includes the words COFFEE and LAB, or is otherwise confusingly similar to our client's COFFEE LABS ROASTERS mark.

As you must appreciate, this matter is of great importance to Coffee Labs. We therefore await a prompt response from either you or your counsel. Unless we receive written assurances from you or your attorneys that you will immediately comply with our demands by August 7, 2014, we will ask the court to preliminarily and permanently enjoin you from providing coffee products and services under a name that infringes upon the trademark rights of Coffee Labs. Further, given the deliberate and willful violation of

LEASON ELLIS

July 30, 2014  
Page 3

our client's trademark rights, we will seek to recover attorneys' fees in connection with such legal action.

This letter constitutes notice of Coffee Labs' trademark rights and is written without waiver of any rights and remedies that Coffee Labs may assert to protect its intellectual property, all of which are expressly reserved.

Very truly yours,



Yuval H. Marcus

**Enclosures**

**YHM:mdr**

**Int. Cls.: 21, 25, 30, 40 and 43**

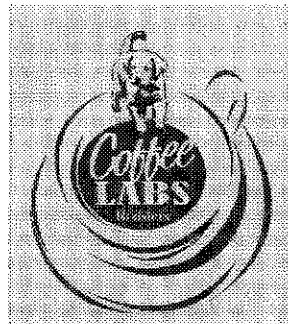
**Prior U.S. Cls.: 2, 13, 22, 23, 29, 30, 33, 39, 40, 46, 50,  
100, 101, 103 and 106**

**Reg. No. 3,282,832**

**Registered Aug. 21, 2007**

**United States Patent and Trademark Office**

**TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER**



COFFEE LABS ROASTERS, INC. (NEW YORK  
CORPORATION)  
7 MAIN STREET  
TARRYTOWN, NY 10591

FOR: MUGS, TRAVEL MUGS AND CUPS, IN  
CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: T-SHIRTS, SWEATSHIRTS, HATS, CAPS  
AND APRONS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE, BEVERAGES MADE OF COFFEE,  
PREPARED COFFEE AND COFFEE-BASED BEV-  
ERAGES AND WHOLE COFFEE BEANS AND  
GROUND COFFEE BEANS, IN CLASS 30 (U.S. CL.  
46).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE ROASTING AND PROCESSING  
SERVICES, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE BARS, IN CLASS 43 (U.S. CLS. 100  
AND 101).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COFFEE" AND "ROASTERS",  
APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A DOG ATOP A  
COFFEE CUP.

SER. NO. 78-850,030, FILED 3-30-2006.

RONALD MCMORROW, EXAMINING ATTORNEY

# United States of America

## United States Patent and Trademark Office



**Coffee Labs**

**ROASTERS**

**Reg. No. 4,518,831**

COFFEE LABS ROASTERS, INC. (NEW YORK CORPORATION)

7 MAIN STREET

Registered Apr. 22, 2014

TARRYTOWN, NY 10591

**Int. Cls.: 21, 25, 30, 40,  
and 43**

FOR: MUGS, TRAVEL MUGS AND CUPS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40  
AND 50).

**TRADEMARK**

FIRST USE 6-0-2013; IN COMMERCE 6-0-2013.

**SERVICE MARK**

FOR: T-SHIRTS, IN CLASS 25 (U.S. CLS. 22 AND 39).

**PRINCIPAL REGISTER**

FIRST USE 12-20-2013; IN COMMERCE 12-20-2013.

FOR: COFFEE, BEVERAGES MADE OF COFFEE, PREPARED COFFEE AND COFFEE-BASED  
BEVERAGES AND WHOLE COFFEE BEANS AND GROUND COFFEE BEANS, IN CLASS  
30 (U.S. CL. 46).

FIRST USE 8-0-2013; IN COMMERCE 8-0-2013.

FOR: COFFEE ROASTING AND PROCESSING SERVICES, IN CLASS 40 (U.S. CLS. 100, 103  
AND 106).

FIRST USE 8-0-2013; IN COMMERCE 8-0-2013.

FOR: COFFEE BARS, IN CLASS 43 (U.S. CLS. 100 AND 101).

FIRST USE 6-0-2013; IN COMMERCE 6-0-2013.

OWNER OF U.S. REG. NOS. 3,282,831 AND 3,282,832.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COFFEE" AND "ROASTERS",  
APART FROM THE MARK AS SHOWN.

*Michelle K. Lee*

Deputy Director of the United States  
Patent and Trademark Office



THE MARK CONSISTS OF "COFFEE LABS ROASTERS" STYLIZED WITH DESIGN OF A  
DOG HOLDING A CUP OF COFFEE. THE LETTER "O" WITHIN THE WORD "COFFEE"  
HAS DESIGN OF A COFFEE BEAN. THE WORD "ROASTERS" IS IN THE BOX. THERE IS

**Reg. No. 4,518,831** A BOX AROUND DESIGN OF THE DOG. THE DOG HAS A COLLAR WITH A COFFEE BEAN HANGING FROM IT.

SN 85-817,718, FILED 1-8-2013.

LOURDES AYALA, EXAMINING ATTORNEY

Int. Cls.: 30, 40 and 43

Prior U.S. Cls.: 46, 100, 101, 103 and 106

Reg. No. 3,282,831

United States Patent and Trademark Office

Registered Aug. 21, 2007

TRADEMARK  
SERVICE MARK  
PRINCIPAL REGISTER

COFFEE LABS ROASTERS

COFFEE LABS ROASTERS, INC. (NEW YORK  
CORPORATION)  
7 MAIN STREET  
TARRYTOWN, NY 10591

FOR: COFFEE, BEVERAGES MADE OF COFFEE,  
PREPARED COFFEE AND COFFEE-BASED BEV-  
ERAGES AND COFFEE BEANS AND GROUND  
COFFEE BEANS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE ROASTING AND PROCESSING  
SERVICES, IN CLASS 40 (U.S. CLS. 100, 103 AND 106).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

FOR: COFFEE BARS, IN CLASS 43 (U.S. CLS. 100  
AND 101).

FIRST USE 5-14-2003; IN COMMERCE 5-14-2003.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "COFFEE" AND "ROASTERS",  
APART FROM THE MARK AS SHOWN.

SER. NO. 78-850,002, FILED 3-30-2006.

RONALD MCMORROW, EXAMINING ATTORNEY